

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANDRE LEE JACOBS,)	
)	
Petitioner,)	
)	Civil Action No. 14-276
v.)	
)	Judge Gustave Diamond
SUPERINTENDENT NANCY GIROUX,)	Magistrate Judge Susan Paradise Baxter
<i>et al.</i> ,)	
)	
Respondents.)	

MEMORANDUM AND ORDER OF COURT

On January 28, 2015, Andre Lee Jacobs ("petitioner") filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §2241 at Civil No. 14-276. The case was assigned to United States Magistrate Judge Susan Paradise Baxter. On January 30, 2015, petitioner signed a consent to jurisdiction by a United States Magistrate Judge in accordance with 28 U.S.C. §636(c)(1) whereby he agreed to have Magistrate Judge Baxter conduct all proceedings in this case. However, on February 20, 2015, petitioner filed notice that he wished to withdraw his consent and the case subsequently was assigned to this member of the court.¹

On April 8, 2015, Magistrate Judge Baxter filed a Report and Recommendation in which she recommended that petitioner's §2241 petition be dismissed summarily pursuant to 28 U.S.C. §2255(e). Petitioner filed objections to the Report and Recommendation on May 20, 2015. Upon *de novo* review of the record, and pursuant to LCvR 72(D)(2), this court accepts in whole the findings and recommendations made by Magistrate Judge Baxter in her Report.

¹ Pursuant to LCvR 2241(E), when a party elects to have the case assigned to a District Judge, "the Magistrate Judge shall continue to manage the case by deciding non-dispositive motions and submitting reports and recommendations on the petition and on dispositive motions...."

In particular, this court agrees with Magistrate Judge Baxter's finding that the claims petitioner seeks to raise in his pending §2241 petition are the types of claims that must be brought in a §2255 motion and that petitioner therefore is precluded from raising those claims in a §2241 petition unless he can show that the remedy under §2255 is "inadequate or ineffective to test the legality of his detention." The court further concurs with the Magistrate Judge that the §2255 remedy is not inadequate or ineffective in this case merely because petitioner cannot meet the stringent gate-keeping requirements for filing a second or successive §2255 petition. Accordingly, this court is prohibited by 28 U.S.C. §2255(e) from entertaining petitioner's §2241 claims. Magistrate Judge Baxter's Report contains a thorough and well-reasoned analysis supporting her conclusions and leaves nothing for this court to add.

Accordingly, petitioner's objections to the Magistrate Judge's Report and Recommendation will be overruled, that Report and Recommendation will be adopted in whole as the opinion of this court, and petitioner's §2241 petition will be dismissed.

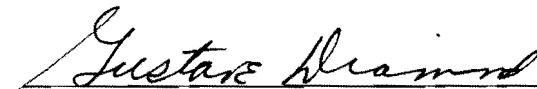
An appropriate order follows.

ORDER OF COURT

AND NOW, this 24th day of June, 2015, upon *de novo* review of petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. §2241, the Report and Recommendation of United States Magistrate Judge Susan Paradise Baxter, and petitioner's objections to the Report and Recommendation, IT IS ORDERED that petitioner's objections to the Magistrate Judge's Report and Recommendation be, and the same hereby are, **overruled**; and,

IT FURTHER IS ORDERED that the Report and Recommendation of Magistrate Judge Baxter dated April 8, 2015 (Document No. 10) be, and the same hereby is, **adopted** in whole as the opinion of this court; and,

IT FURTHER IS ORDERED, for the reasons set forth in this Memorandum and Order of Court, as well as those set forth in the Report and Recommendation, that petitioner's §2241 motion (Document No. 6), be, and the same hereby is, **dismissed**.



Gustave Diamond
United States District Judge

cc: Andre Lee Jacobs
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